

EXTRAORDINARY

भाग II—खण्ड 2

PART II-Section 2 प्राधिकार संप्रकाशित

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नई विल्ली, ब्रथवार, मई 9, 1979,बॅशाख 19, 1901

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NEW DELHI, WEDNESDAY, MAY 9, 1979/VAISAKHA 19, 1901

इस भाग में भिन्न पष्ठ संख्या दी जाती हैं जिससे कि यह असग संकलन के रूप में रखा जा सकी। Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 9th May, 1979:-

BILL No. 66 of 1979

A Bill to provide for, in the public interest, the acquisition and transfer of the right, title and interest of the Jaipur Udyog Limited in relation to its cement undertakings, for the purpose of ensuring continuity of production of cement which is essential to the needs of the community, the industries and other developmental projects in the country and for matters connected therewith or incidental thereto.

WHEREAS the Jaipur Udyog Limited is engaged in the production of cement and other commodities;

And whereas production of cement is essential to the needs of the community, the industries and other developmental projects in country;

And whereas as a result of the losses suffered by the Jaipur Udyog Limited, the production of cement has suffered and the public interest has been adversely affected thereby;

AND WHEREAS it is necessary to acquire, in the public interest, the right, title and interest of the Jaipur Udyog Limited in relation to its cement undertakings to ensure the continuity of the production of cement in order to serve better the needs of the community, the industries and other developmental projects in the country;

BE it enacted by Parliament in the Thirtleth Year of the Republic of India as follows:→

CHAPTER I

PRELIMINARY

1. This Act may be called the Jaipur Udyog Limited (Acquisition and Transfer of Cement Undertakings) Act, 1979.

Short title.

Definitions.

- 2. In this Act, unless the context otherwise requires,—
 - (a) "appointed day" means the date of commencement of this Act;
- (b) "Cement Corporation" means the Cement Corporation of India, a company incorporated and registered under the Companies Act, 1956;

1 of 1956.

- (c) "cement undertakings of the Company" means such of the undertakings of the Company as pertain to the production of cement or to the distribution of cement produced by the Company;
- (d) "Commissioner" means the Commissioner of Payments appointed under section 13:
- (e) "Company" means the Jaipur Udyog Limited, being a company as defined in the Companies Act, 1956, and having its registered office at Sawaimadhopur in the State of Rajasthan;

1 of 1956.

(f) "Government company" has the meaning assigned to it by section 617 of the Companies Act, 1956;

1 of 1956.

- (g) "notification" means a notification published in the Official Gazette;
 - (h) "prescribed" means prescribed by rules made under this Act;
- (i) "specified date", in relation to any provision of this Act, means such date as the Central Government may, by notification, specify for the purpose of that provision and different dates may be specified for different provisions of this Act;
- (j) words and expressions used herein and not defined but defined in the Companies Act, 1956, shall have the meanings, respectively, assigned to them in that Act.

1 of 1956.

CHAPTER II

CQUISITION AND TRANSFER OF THE CEMENT UNDERTAKINGS OF THE COMPANY

3. On the appointed day, the cement undertakings of the Company, and the right, title and interest of the Company in relation to its cement undertakings, shall, by virtue of this Act, stand transferred to, and shall vest in, the Central Government.

Transfer and vest-ing in the Clentral/ Government of the cement undertakings of the Company.

General effect of vesting.

4. (1) The cement undertakings of the Company shall be deemed to include all property and assets (including lands, quarries, mines, buildings, offices, factories, workshops, stores, plants, machinery and equipment, installations, instruments, laboratories, office furniture, stationery and equipment, vehicles, staff-quarters and workers, colonies together with amenities and installations pertaining to them, cash balances, cash on hand, reserve funds, investments, book debts, rights, leaseholds, powers, authorities and privileges) pertaining to the cement undertakings of the Company or used for the production of cement or distribution of cement produced by the Company, and all other rights and interests in or arising out of such property and assets, as were immediately before the appointed day in the ownership, possession, power or control of the Company, whether within or outside India, and all books of account, registers and all other documents of whatever nature relating thereto.

- (2) All property and assets as aforesaid which have vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trust, obligation, mortgage, charge, lien and all other incumbrances affecting them, and any attachment, injunction or decree or order of any court or other authority restricting the use of such property or assets in any manner or appointing any receiver in respect of the whole or any part of such property or assets shall be deemed to have been withdrawn.
- (3) Every mortgagee of any property which has vested under this Act in the Central Government and every person holding any charge, lien or other interest in, or in relation to, any such property, shall give, within such time and in such manner as may be prescribed, an intimation to the Commissioner of such mortgage, charge, lien or other interest.
- (4) For the removal of doubts, it is hereby declared that the mortgagee of any property referred to in sub-section (3) or any other person holding any charge, lien or other interest in, or in relation to, any such property shall be entitled to claim, in accordance with his rights and interests, payment of the mortgage money or other dues, in whole or in part, out of the amounts referred to in section 8, but no such mortgage, charge, lien or other interest shall be enforceable against any property which have vested in the Central Government.
- (5) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any property or asset which has vested in the Central Government, under section 3, instituted or preferred by or against the Company is pending, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of transfer of the cement undertakings of the Company or of anything contained in this Act, but the suit, appeal or other proceeding may be continued, prosecuted or enforced by or against the Central Government or the Cement Corporation or, where the cement undertakings of the Company are directed, under section 7, to vest in a Government company, that Government company.
- 5. (1) Every liability of the Company in relation to its cement undertakings in respect of any period prior to the appointed day shall be the liability of the Company and shall be enforceable against it and not against the Central Government or the Cement Corporation or, where the cement undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company.
 - (2) For the removal of doubts, it is hereby declared that,—
 - (a) save as otherwise expressly provided in this Act, no liability of the Company in relation to its cement undertakings in respect of any period prior to the appointed day, shall be enforceable against the Central Government or the Cement Corporation or, where the cement undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company;
 - (b) no award, decree or order of any court, tribunal or other authority in relation to the cement undertakings of the Company, passed after the appointed day, in respect of any matter, claim or dispute which arose before that day, shall be enforceable against the Central Government or the Cement Corporation or, where the cement undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company;

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(c) no liability incurred by the Company before the appointed day, for the contravention of any provision of law for the time being in force, shall be enforceable against the Central Government or the Cement Corporation or, where the cement undertakings of the Company are directed, under section 7, to vest in a Government company, against that Government company.

Vesting of the cement undertakings of the Company in the Cement Corporation.

- 6. (1) Notwithstanding anything contained in sections 3 and 4, the Central Government shall, as soon as may be, after the appointed day, direct, by notification, that the cement undertakings of the Company, and the right, title and interest of the Company in relation to its cement undertakings, which have vested in the Central Government under section 3, shall, instead of continuing to vest in the Central Government, vest in the Cement Corporation either on the date of notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.
- (2) Where the right, title and interest of the Company in relation to its cement undertakings vest in the Cement Corporation under subsection (1), the Cement Corporation shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Cement Corporation.

Power of the Central Government to direct vesting of the cement undertakings of the Company in a Government company.

- 7. (1) Notwithstanding anything contained in sections 3, 4 and 6, the Central Government may, if it is satisfied that a Government company is willing to comply, or has complied, with such terms and conditions as that Government may think fit to impose, direct, by notification, that the cement undertakings of the Company, and the right, title and interest of the Company in relation to its cement undertakings which have vested in the Central Government under section 3 and thereafter in the Cement Corporation under section 6, shall, instead of continuing to vest in the Cement Corporation, vest in the Government company either on the date of the notification or on such earlier or later date (not being a date earlier than the appointed day) as may be specified in the notification.
- (2) Where the right, title and interest of the Company in relation to its cement undertakings vest in a Government company under subsection (1), the Government company shall, on and from the date of such vesting, be deemed to have become the owner in relation to such undertakings, and all the rights and liabilities of the Central Government or the Cement Corporation in relation to such undertakings shall, on and from the date of such vesting, be deemed to have become the rights and liabilities, respectively, of the Government company.

CHAPTER III

PAYMENT OF AMOUNTS

Payment of amount 8. (1) For the transfer to, and vesting in, the Central Government, under section 3, of the cement undertakings of the Company and the right, title and interest of the Company in relation to its cement undertakings, there shall be given by the Central Government to the Company, in cash, and in the manner specified in Chapter VI, an amount of rupees ten crores and twenty-seven lakhs.

- (2) The amount specified in sub-section (1) shall carry simple interest at the rate of four per cent. per annum for the period commencing on the appointed day and ending on the date on which payment of such amount is made by the Central Government to the Commissioner.
- (3) The amounts determined in accordance with the provisions of sub-section (2) shall be given by the Central Government to the Company in addition to the amount specified in sub-section (1).
- (4) For the removal of doubts, it is hereby declared that the liabilities of the Company in relation to its cement undertakings which have vested in the Central Government under section 3, shall be discharged from the amount referred to in sub-section (1), and also from the amount determined under sub-section (2) in accordance with the rights and interests of the creditors of the Company.

CHAPTER IV

MANAGEMENT, ETC., OF THE CEMENT UNDERTAKINGS OF THE COMPANY

9. The general superintendence, direction, control and management of the affairs and business of the cement undertakings of the Company, the right, title and interest in relation to which have vested, under section 3, in the Central Government, shall,—

Management, etc., of the cement undertakings of the Company.

- (a) where a direction has been issued by the Central Government under sub-section (1) of section 6, vest in the Cement Corporation;
- (b) where a direction has been issued by the Central Government under sub-section (1) of section 7, vest in the Government company specified in such direction.

and thereupon the Cement Corporation or, as the case may be, the Government company shall be entitled to exercise all such powers and do all such things as the Company is authorised to exercise and do in relation to its cement undertakings.

10. (1) On the vesting of the management of the cement undertakings of the Company in the Central Government or the Cement Corporation or the Government company, as the case may be, all persons in charge of the management of such undertakings of the Company immediately before such vesting shall be bound to deliver to the Central Government or the Cement Corporation or the Government company or to such person or body of persons as the Central Government or the Cement Corporation or the Government company, as the case may be, may specify in this behalf, all property, assets, books of account, registers or other documents in their custody relating to the cement undertakings of the Company.

Duty of persons in charge of management of the cement undertakings of the Company to deliver all property, assets, etc.

(2) The Central Government may issue such directions as it may deem desirable in the circumstances of the case to the Cement Corporation or the Government company, as the case may be, as to its powers and duties and the Cement Corporation or the Government company,

as the case may be, may also, if it so desires, apply to the Central Government at any time for instructions as to the manner in which the management of the cement undertakings of the Company shall be conducted by it or in relation to any other matter arising in the course of such management.

CHAPTER V

PROVISIONS RELATING TO CERTAIN EMPLOYEES OF THE COMPANY

Employment of certain employees to continue.

- 11. (1) Every person who has been, immediately before the appointed day, employed by the Company in connection with its cement undertakings shall become, on and from the appointed day or such later date, as the case may be, an employee of the Central Government or the Cement Corporation or the Government company, as the case may be, in which the right, title and interest of the Company in relation to its cement undertakings, have vested under this Act, and shall hold office or service under the Central Government or the Cement Corporation or the Government company, as the case may be, with the same rights and privileges as to pension, gratuity and other matters as would have been admissible to him if there had been no such vesting and shall continue to do so unless and until his employment under the Central Government or the Cement Corporation or the Government company, as the case may be, is duly terminated or until his remuneration and other conditions of service are duly altered by the Central Government or the Cement Corporation or the Government company, as the
- (2) Notwithstanding anything contained in the Industrial Disputes Act, 1947, or in any other law for the time being in force, the transfer of the services of any officer or other person employed by the Company in connection with its cement undertakings to the Central Government or the Cement Corporation or the Government company, as the case may be, shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.
- (3) Where, under the terms of any contract of service or otherwise, any person, whose services become transferred to the Central Government or the Cement Corporation or the Government company, as the case may be, by reason of the provisions of this Act, is entitled to any arrears of salary or wages or any payments for any leave not availed of or any other payment, not being payment by way of gratuity or pension, such person may enforce his claim against the Company but not against the Central Government or the Cement Corporation or the Government company.

Provident fund and other funds.

12. (1) Where the Company has established a provident fund, superannuation fund, welfare fund or any other fund for the benefit of the persons employed in any of the undertakings of the Company, the moneys relatable to the officers or other employees, whose services have become transferred by or under this Act to the Central Government or the Cement Corporation or the Government company, as the case may be, shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, superannuation fund, welfare fund or other fund, stand transferred to, and shall vest in, the Central Government or the Cement Corporation or the Government company, as the case may be.

14 of 1947.

(2) The moneys which stand transferred under sub-section (1) to the Central Government or the Cement Corporation or the Government company, as the case may be, shall be dealt with by the Central Government or the Cement Corporation or the Government company, as the case may be, in such manner as may be prescribed.

CHAPTER VI

COMMISSIONER OF PAYMENTS

13. (1) The Central Government shall, for the purpose of disbursing the amounts payable to the Company under section 8, by notification, appoint a Commissioner of Payments.

Appointment of Commissioner of Payments.

- (2) The Central Government may appoint such other persons as it may think fit to assist the Commissioner and thereupon the Commissioner may authorise one or more of such persons also to exercise all or any of the powers exercisable by him under this Act and different persons may be authorised to exercise different powers.
- (3) Any person authorised by the Commissioner to exercise any of the powers exercisable by the Commissioner may exercise those powers in the same manner and with the same effect as if they have been conferred on that person directly by this Act and not by way of authorisation.
- (4) The salaries and allowances of the Commissioner and other persons appointed under this section shall be defrayed out of the Consolidated Fund of India.
- 14. (1) The Central Government shall, within thirty days from the specified date, pay, in cash, to the Commissioner, for payment to the Company an amount equal to the amount specified in section 8.

Payment by the Central Government to the Commissioner.

- (2) A deposit account shall be opened by the Central Government in favour of the Commissioner, in the Public Account of India, and every amount paid under this Act to the Commissioner shall be deposited by him to the credit of the said deposit account and the said deposit account shall be operated by the Commissioner.
- (3) The interest accruing on the amount standing to the credit of the deposit account referred to in sub-section (2) shall enure to the benefit of the Company.
- 15. (1) The Central Government or the Cement Corporation or the Government company, as the case may be, shall be entitled to receive up to the specified date, to the exclusion of all other persons, any money due to the Company, in relation to its cement undertakings which have vested in the Central Government or the Cement Corporation or the Government company, as the case may be, realised after the appointed day notwithstanding that the realisation pertains to a period prior to the appointed day.
- (2) The Central Government or the Cement Corporation or the Government company, as the case may be, may make a claim to the Commissioner with regard to every payment made by it after the appointed day for discharging any liability of the Company pertaining to its cement undertakings in relation to any period prior to the appointed

Certain powers of the Central Government or Cement Corporation or Government company.

day; and every such claim shall have priority in accordance with the priorities attaching under this Act, to the matter in relation to which such liability has been discharged by the Central Government or the Cement Corporation or the Government company, as the case may be.

(3) Save as otherwise provided in this Act, the liabilities of the Company in relation to its cement undertakings in respect of any transaction prior to the appointed day, which have not been discharged on or before the specified date, shall be the liabilities of the Company.

Claims to to be made to the Commissioner. 16. Every person having a claim against the Company shall prefer such claim before the Commissioner within thirty days from the specified date:

Provided that if the Commissioner is satisfied that the claimant was prevented by sufficient cause from preferring the claim within the said period of thirty days, he may entertain the claim within a further period of thirty days and not thereafter.

Priority of claims.

- 17. The claims arising out of the matters specified in the Schedule shall have priorities in accordance with the following principles, namely:—
 - (a) Category I will have precedence over all other categories and Category II will have precedence over Category III, and so on;
 - (b) the claims specified in each of the categories shall rank equally and be paid in full, but, if the amount is insufficient to meet such claims in full, they shall abate in equal proportions and be paid accordingly;
 - (c) the question of discharging any liability with regard to a matter specified in a lower category shall arise only if a surplus is left after meeting all the liabilities specified in the immediately higher category.

Examination of claims.

- 18. (1) On receipt of the claims made under section 16, the Commissioner shall arrange the claims in the order of priorities specified in the Schedule and examine the same in accordance with such order of priorities.
- (2) If, on examination of the claims, the Commissioner is of opinion that the amount paid to him under this Act is not sufficient to meet the liabilities specified in any lower category, he shall not be required to examine the claims in respect of such lower category.

Admission or rejection of claims.

- 19. (1) After examining the claims with reference to the priorities set out in the Schedule, the Commissioner shall fix a date on or before which every claimant shall file the proof of his claim, failing which he will be excluded from the benefit of the disbursements made by the Commissioner.
- (2) Not less than fourteen days' notice of the date so fixed shall be given by advertisement in one issue of a daily newspaper in the English language having circulation in the major part of the country and one issue of such daily newspaper in the regional language as the Commissioner may consider suitable, and every such notice shall call upon the claimant to file the proof of his claim with the Commissioner within the time specified in the advertisement.

- (3) Every claimant who fails to file the proof of his claim within the time specified by the Commissioner shall be excluded from the disbursements made by the Commissioner.
- (4) The Commissioner shall, after such investigation as may, in his opinion, be necessary and after giving the Company an opportunity of refuting the claim and after giving the claimant a reasonable opportunity of being heard, in writing, admit or reject the claim in whole or in part.
- (5) The Commissioner shall have the power to regulate his own procedure in all matters arising out of the discharge of his functions, including the place or places at which he will hold his sittings and shall, for the purpose of making an investigation under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

4 of 1908.

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
 - (c) the reception of evidence on affidavits;
- (d) the issuing of any commission for the examination of witnesses.

(6) Any investigation before the Commissioner shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Commissioner shall be deemed to be a civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

(7) A claimant who is dissatisfied with the decision of the Commissioner may prefer an appeal against the decision to the principal civil court of original jurisdiction within the local limits of whose jurisdiction the registered office of the Company is situated:

Provided that where a person who is a Judge of a High Court is appointed to be the Commissioner, the appeal shall lie to the High Court within the local limits of whose jurisdiction such registered office is situated, and such appeal shall be heard and disposed of by not less than two Judges of that High Court.

20. After admitting a claim under this Act, the amount due in respect of such claim shall be paid by the Commissioner to the person or persons to whom such sums are due, and, on such payment, the liability of the Company in respect of such claim shall stand discharged.

Disbursement of money by the Commissioner to claimants.

- 21. (1) If, out of the moneys paid to him under section 14, there is a balance left after meeting the liabilities as specified in the Schedule, the Commissioner shall disburse such balance to the Company.
- (2) Where the possession of any machinery, equipment or other property, has vested in the Central Government or the Cement

Disbursement of amounts to the Company.

Corporation or the Government company, as the case may be, under this Act, but such machinery, equipment, or other property does not belong to the Company, it shall be lawful for the Central Government or the Cement Corporation or the Government company, as the case may be, to continue to possess such machinery or equipment or other property on the same terms and conditions under which they were possessed by the Company immediately before the appointed day.

Undisbursed or
unclaimed
amount to
be transferred to the
general
revenue
account.

22. Any money paid to the Commissioner which remains undisbursed or unclaimed for a period of three years from the last day on which the disbursement was made shall be transferred by the Commissioner to the general revenue account of the Central Government; but a claim to any money so transferred may be preferred to the Central Government by the person entitled to such payment and shall be dealt with as if such transfer had not been made, the order, if any, for payment of the money being treated as an order for the refund of the revenue.

CHAPTER VII

MISCELLANEOUS

Act to have overridit.g effect

Contracts in rela-

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- 23. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.
- 24. (1) Every contract entered into by the Company in relation to its cement undertakings for any service, sale or supply, and in force immediately before the appointed day, shall, on and from the expiry of one hundred and eighty days from such day, cease to have effect unless such contract is before the expiry of that period, ratified, in writing, by the Central Government or the Cement Corporation or the Government company, as the case may be, and, in ratifying such contract, the Central Government or the Cement Corporation or the Government company, as the case may be, may make such alteration or modification therein as it may think fit:

Provided that the Central Government or the Cement Corporation or the Government company, as the case may be, shall not omit to ratify a contract, and shall not make any alteration or modification in a contract, unless it is satisfied that such contract is unduly onerous or has been entered into in bad faith or is detrimental to the interests of the Central Government or the Cement Corporation or the Government company, as the case may be.

(2) The Central Government or the Cement Corporation or the Government company, as the case may be, shall not omit to ratify a contract, and shall not make any alteration or modification therein, except after giving to the parties to the contract a reasonable opportunity of being heard and except after recording, in writing its reasons for refusal to ratify the contract or for making any alteration or modification therein.

Protection of action taken in good faith. 25. (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or any officer of that Government, or the Cement Corporation or the Government company, or any officer or other person authorised by that Government or Corporation or Government company for anything which is in good faith done or intended to be done under this Act.

- (2) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees, or the Cement Corporation or the Government company, or any officer or other person authorised by that Corporation or Company for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.
- 26. (1) The Central Government may, by notification, direct that all or any of the powers exercisable by it under this Act, other than the power conferred by section 29, may also be exercised by such person or persons as may be specified in the notification.

Delegation of powers.

(2) Whenever any delegation of power is made under sub-section (1), the person to whom such power has been delegated shall act under the direction, control and supervision of the Central Government.

27. Any person who,-

Penalties.

- (a) having in his possession, custody or control any property or assets forming part of the cement undertakings of the Company, wrongfully withholds such property or assets from the Central Government or the Cement Corporation or the Government company; or
- (b) wrongfully obtains possession of, or retains, any property or assets forming part of the cement undertakings of the Company or wilfully withholds or fails to furnish to the Central Government, or the Cement Corporation or the Government company, or any person or body of persons specified by that Government or Corporation or Government company, any document relating to such undertakings which may be in his possession, custody or control or fails to deliver to the Central Government, or the Cement Corporation or the Government company, or any person or body of persons specified by that Government or Corporation or Government company, any property, assets, books of account, registers or other documents in his possession, custody or control, relating to the cement undertakings of the Company; or
- (c) wrongfully removes or destroys any property or asset forming part of the cement undertakings of the Company or prefers any claim under this Act which he knows or has reasonable cause to believe to be false or grossly inaccurate.

shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

28. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary, or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

- (a) "company" means any body corporate and includes a firm or other association of ind viduals;
 - (b) "director", in relation to a firm, means a partner in the firm.

Power to make rules.

- 29. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
 - (a) the time within which, and the manner in which, an intimation shall be given to the Commissioner under sub-section (3) of section 4;
 - (b) the manner in which the moneys in any provident fund or other fund referred to in section 12 shall be dealt with;
 - (c) any other matter which is required to be, or may be, prescribed.
- (3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to remove difficultles.

30. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

Declaration as to the policy of the State: 31. It is hereby declared that this Act is for giving effect to the policy of the State towards securing the principles specified in clause (b) of article 39 of the Constitution.

Explanation.—In this section, "State" has the same meaning as in article 12 of the Constitution.

THE SCHEDULE

[See sections 17, 18, 19 and 21]

ORDER OF PRIORITIES FOR THE DISCHARGE OF LIABILITIES OF THE COMPANY

Category I.

Wages, salaries and other dues of the employees of the Company.

Category II.

- (i) Loans advanced by the Central Government by deferment of excise duty.
- (ii) Loans advanced by the State Government by deferment of royalty and sales tax.
 - (iii) Loans advanced by financial institutions and banks,
- (iv) Arrears in relation to contributions to be made by the Company to the provident fund, salaries, wages and other amounts due to the employees of the Company including contributions to be made under the Employees' State Insurance Act, 1948, and any other law for the time being in force providing for such contributions.

Category III.

Revenue, taxes, cesses, rates or any other dues to the Central Government, a State Government, a local authority or a State Electricity Board.

Category IV.

Any credit availed of by the Company for the purpose of carrying on any trading or manufacturing operations, as under:—

- (i) Repayment of advances and deposits, received from Government Departments and public undertakings for the supply of cement.
- (ii) Repayment of advances and deposits, received from stockists and dealers for the supply of cement,
- (iii) Repayment of advances and deposits, received from the general public for the supply of cement

Category V.

Any other loans.

Category VI.

Overdrafts from banks.

34 of 1948,

STATEMENT OF OBJECTS AND REASONS

The unsatisfactory functioning of Jaipur Udyog Limited, one of the largest cement production units in the country, with a licensed capacity of 10 lakh tonnes per annum, has been engaging the attention of the Central Government. Due to financial difficulties resulting from mismanagement, the Company closed down production during the period September 1975 to April 1976. To enable the Company to restart production from April 1976, financial assistance of about Rs. 9 creres was provided by the Central Government, the State Government and the State Bank of India. The management was also strengthened by the inclusion, on the Board of Management, of representatives of the Central Government, the State Government, the State Bank of India and the financial institutions. However, the functioning of the Company has continued to be unsatisfactory and it has not been able to generate sufficient funds to finance the production or to meet its commitments even for the repayment of deferred excise duty and interest charges. The subsidiary unit of the Company at Kanpur for production of jute goods is also presently closed down

- 2. The present losses of the Company exceed Rs. 16 crores and the liabilities of the Company for repayment of loans advanced by the Central Government, the State Government, the State Bank of India and the financial institutions are of the order of about Rs. 17.14 crores. An investigation under section 15 of the Industries (Development and Regulation) Act, 1951, was ordered on the 22nd July, 1978 into the working of the Company. After considering the report of the Investigating Committee and taking into account the continued unsatisfactory functioning of the Company, the losses and the liabilities, the Central Government has decided that it would be in the public interest to acquire the cement undertakings of the Company and transfer them to the Cement Corporation of India which is a public sector undertaking engaged in the manufacture and sale of cement.
 - 3. The Bill seeks to give effect to the above object.

NEW DELHI;

The 23rd April, 1979.

GEORGE FERNANDES.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF THE CONSTITUTION OF INDIA

[Copy of letter No. 9-11-Cement/78/3147-Int, dated the 24th April, 1979 from Shri George Fernandes, Mirister of Industry to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Jaipur Udvog Limited (Acquisition and Transfer of Cement Undertakings) Bill, 1979, has been recommended under article 117(1) and (3) of the Constitution of India, the introduction in and consideration by Lok Sabha of the said Bill in the current 1855 n.

FINANCIAL MEMORANDUM

Sub-clause (1) of clause 8 of the Bill provides for the payment, in cash, and in the manner specified in Chapter VI of the Bill, an amount of rupees ten crores and twenty-seven lakhs, for vesting in the Central Government, the right, title and the interest of the Jaipur Udyog Limited in relation to its cement unit.

- 2. Sub-clause (2) of clause 8 provides for the payment of simple interest at the rate of 4 per cent, per annum for the period commencing from the date the legislation comes into force and ending on the day on which payment of the amount specified in sub-clause (1) is made by the C-ntral Government to the Commissioner of Payments. It is estimated that the interest payment in terms of the provisions of sub-clause (2) is likely to be of the order of about Rs. 3.42 lakhs per month.
- 3. Clause 13 of the Bill provides for appointment of Commissioner of Payments by the Government with adequate staff to assist him for the purpose of disbursing the amount payable to the Company. The salary and allowances of the Commissioner of Payments and his staff and expenditure on office and establishment will be defrayed out of the Consolidated Fund of India. The estimated expenditure on this account is likely to be of the order of Rs. 15,000 per month.
- 4. At the time of restart of production by the end of April, 1976, after closure, the banks and financial institutions were not agreeable to advancing further amounts to the Company for restarting production unless the Central and State Governments were also involved in the nursing programme in view of the huge requirements of funds. At the instance of the Central Government, the State Bank of India closed its earlier account with the Company and extended fresh cash credit facilities to enable the Company to restart its production. In addition, the banks continue to provide facilities for current operations.
- 5. It was, therefore, felt that Government having sponsored the nursing programme of the Company it would not be appropriate to deny necessary protection to the dues of the banks and financial institutions. It was, therefore, decided that after taking into account the amounts they are likely to get in accordance with the priorities provided in the Bill and the amounts that they would be expected to get by recourse to legal remedies available to them, Government would take note of the shortfall and pay the amounts to the banks and financial institutions. The shortfall is estimated to be about Rs. 6 crores. Payment in pursuance of this decision will be made after due appropriation by Parliament by law.
- 6. Funds will also have to be provided to the Company for a "First Aid" operation in the short term for which the financial requirements have been estimated at Rs. 150 lakhs by the Investigating Committee consistent with the need for economy in expenditure particularly in the

case of a unit like Jaipur Udyog Limited. The Government has already given an undertaking to the Industrial Development Bank of India for a short term loan of Rs. 85 lakhs to the Company to enable them to undertake the immediate repairs to avoid any possible major break-down. This expenditure is necessary to enable the Company to undertake immediate repairs of or replacements for the plant to operate at the capacity level for the next 4 to 5 years. A further investment of the order of about Rs. 15 crores would also be necessary for the long term rehabilitation of the cement unit of the Company.

7. The Bill, if enacted, is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 29 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may provide for matters, such as-

- (a) the time within which, and the manner in which, an intimation referred to in sub-clause (3) of clause 4 of the Bill shall be given; and
- (b) the manner in which the moneys in any provident fund or other fund referred to in clause 12 shall be dealt with.

The matters in respect of which such rules may be made are matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

> AVTAR SINGH RIKHY, Secretary.